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10 Attorneys for Plaintiff  
11 United States of America  
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17 UNITED STATES DISTRICT COURT

18 SOUTHERN DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA, ) **NOTICE OF GOVERNMENT'S MOTION FOR**  
20 v. ) **RECIPROCAL DISCOVERY**  
21 HAMILTON SILVA-VASQUEZ, ) CASE: 08CR2424-BTM  
22 Plaintiff, ) JUDGE: HON. BARRY TED MOSKOWITZ  
23 ) COURT: COURTROOM 15  
24 ) DATE: AUGUST 29, 2008  
25 ) TIME: 8:30 a.m.  
26 Defendant. ) TOGETHER WITH MEMORANDUM OF  
27 ) POINTS AND AUTHORITIES  
28 )  
29

30 COMES NOW the plaintiff, UNITED STATES OF AMERICA, by and through  
31 its counsel, Karen P. Hewitt, United States Attorney, and Christopher  
32 P. Tenorio, Assistant United States Attorney, and hereby files notice  
33 of its motion for reciprocal discovery.

34 DATED: August 14, 2008

35 Respectfully submitted,

36 KAREN P. HEWITT  
37 United States Attorney  
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40 *s/Christopher P. Tenorio*  
41 CHRISTOPHER P. TENORIO  
42 Assistant U.S. Attorney  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) **CERTIFICATE OF SERVICE**  
Plaintiff, ) CASE: 08CR2424-BTM  
v. ) JUDGE: HON. BARRY TED MOSKOWITZ  
HAMILTON SILVA-VASQUEZ, ) COURT: COURTROOM 15  
Defendant. )  
\_\_\_\_\_ )

IT IS HEREBY CERTIFIED that:

I, CHRISTOPHER P. TENORIO, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of **NOTICE OF GOVERNMENT'S MOTION FOR RECIPROCAL DISCOVERY** on **Erick L. Guzman, Esq.** by electronically filing the foregoing with the Clerk of the District Court using its ECF System.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 14, 2008

Respectfully submitted,

*s/Christopher P. Tenorio*  
CHRISTOPHER P. TENORIO  
Assistant U.S. Attorney

1 KAREN P. HEWITT  
2 United States Attorney  
3 CHRISTOPHER P. TENORIO  
4 Assistant U.S. Attorney  
5 California State Bar No. 166022  
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9 [Christopher.Tenorio@usdoj.gov](mailto:Christopher.Tenorio@usdoj.gov)

10 Attorneys for Plaintiff  
11 United States of America  
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17 UNITED STATES DISTRICT COURT

18 SOUTHERN DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA, ) **GOVERNMENT'S MOTION FOR**  
20 ) **RECIPROCAL DISCOVERY**  
21 Plaintiff, )  
22 v. ) CASE: 08CR2424-BTM  
23 HAMILTON SILVA-VASQUEZ, ) JUDGE: HON. BARRY TED MOSKOWITZ  
24 ) COURT: COURTROOM 15  
25 Defendant. ) DATE: AUGUST 29, 2008  
26 ) TIME: 8:30 a.m.  
27 ) TOGETHER WITH MEMORANDUM OF  
28 ) POINTS AND AUTHORITIES  
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30

31 COMES NOW the plaintiff, UNITED STATES OF AMERICA, by and through  
32 its counsel, Karen P. Hewitt, United States Attorney, and Christopher  
33 P. Tenorio, Assistant United States Attorney, and hereby files its  
34 motion for reciprocal discovery. Said motion is based upon the files  
35 and records of the case, together with the attached Memorandum of  
36 Points and Authorities.

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1                             **I.**2                             **INTRODUCTION**

3                             The Government incorporates by reference its Statement of Facts  
4 provided in its Response in Opposition to Defendant's Motion to Compel  
5 Discovery, filed under separate cover.

6                             **II.**7                             **GOVERNMENT'S MOTION FOR RECIPROCAL DISCOVERY**8                             **A. THE GOVERNMENT IS ENTITLED TO RULE 16(B) DISCOVERY**

9                             The Defendant has invoked Federal Rule of Criminal Procedure  
10 16(a)(1), (C) and (D) in his motion for discovery and the Government  
11 has voluntarily complied with the requirements of those rules. Thus,  
12 pursuant to Rule 16(b), the Government is entitled to certain  
13 reciprocal discovery. Under Rule 16(b)(1)(A):

14                             If the defendant requests disclosure under subdivision  
15 (a)(1)(C) or (D) of this rule, upon compliance with such  
16 request by the Government, the defendant, on request of the  
17 government, shall permit the Government to inspect and copy  
18 or photograph books, papers, documents, photographs,  
tangible objects, or copies or portions thereof, which are  
within the possession, custody, or control of the defendant  
and which the defendant intends to introduce as evidence-in-chief at the trial.

19                             If the defendant requests disclosure under subdivision  
20 (a)(1)(C) or (D) of this rule, upon compliance with such  
21 request by the Government, the defendant, on request of the  
22 Government, shall permit the Government to inspect and copy  
23 or photograph any results or reports of physical or mental  
examinations and of scientific tests or experiments made in  
connection with the particular case, or copies thereof,  
24 within the possession or control of the defendant, which  
the defendant intends to introduce as evidence in chief at  
the trial or which were prepared by a witness whom the  
defendant intends to call at the trial when the results or  
reports relate to his testimony.

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26 Fed. R. Crim. P. 16(b)(1)(A).

27                             The Government, pursuant to Rule 16(b), hereby requests the  
28 Defendant to permit the Government to inspect, copy, and photograph

1 any and all books, papers, documents, photographs, tangible objects,  
2 or make copies of portions thereof, which are within the possession,  
3 custody or control of the Defendant and which he intends to introduce  
4 as evidence in his case-in-chief at trial.

5 The Government further requests permission to inspect and copy  
6 or photograph any results or reports of physical or mental  
7 examinations and of scientific tests or experiments made in connection  
8 with this case, which are in the possession or control of the  
9 Defendant, which he intends to introduce as evidence-in-chief at the  
10 trial or which were prepared by a witness whom the Defendant intends  
11 to call as a witness. The Government also requests that the court  
12 make such orders as it deems necessary under Rule 16(d)(1) and (2) to  
13 ensure that the Government receives the discovery to which it is  
14 entitled.

15 **B. THE GOVERNMENT IS ENTITLED TO RULE 26.2 DISCOVERY**

16 Federal Rule of Criminal Procedure 26.2 requires the production  
17 of prior statements of all witnesses, except defendants. The rule  
18 requires reciprocal production of Jencks statements, stating in  
19 relevant part:

20 After a witness other than the defendant has testified on  
21 direct examination, the court, on motion of a party who did  
22 not call the witness, shall order the attorney . . . to  
23 produce, for the examination and use of the moving party,  
any statement of the witness that is in their possession  
and that relates to the subject matter concerning which the  
witness has testified.

24 Fed. R. Crim. P. 26.2(a).

25 Consistent with the Jencks Act, Rule 26.2 requires witnesses'  
26 statements to be submitted after the witnesses have testified.  
27 Therefore, the Government hereby requests that Defendant be ordered  
28 to supply all prior statements of defense witnesses on or before a

1 date sufficiently prior to the trial to enable preparation for use at  
2 trial. The Court should order Defendant to produce all such  
3 statements regardless of their form, including but not limited to tape  
4 recordings, handwritten, and typed notes and reports.

5 **III.**

6 **CONCLUSION**

7 Based on the foregoing, the Court should grant the Government's  
8 motion for reciprocal discovery.

9 DATED: August 14, 2008

10 Respectfully submitted,

11 KAREN P. HEWITT  
12 United States Attorney

13 *s/Christopher P. Tenorio*  
14 CHRISTOPHER P. TENORIO  
15 Assistant U.S. Attorney

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Respectfully submitted,

*s/Christopher P. Tenorio*  
CHRISTOPHER P. TENORIO  
Assistant U.S. Attorney